

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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PAULA PACENTE,  
Charging Party/Appellant,

HRB CASE NO. 0121015533

-v-

ORDER  
FINAL AGENCY DECISION

MONTANA DEPARTMENT OF  
ADMINISTRATION, OFFICE OF THE  
PUBLIC DEFENDER,  
Respondent/Appellee.

\*\*\*\*\*

Charging Party, Paula Pacente (Pacente), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in employment by Respondent, Montana Department of Administration, Office of the Public Defender on the basis of sex when it subjected her to harassment and then terminated her employment in retaliation for complaining about the harassment. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Pacente's allegations that Respondent, Montana Department of Administration, Office of the Public Defender, unlawfully discriminated against Pacente. The Department issued a Notice of Dismissal. Pacente filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on March 13, 2013. Paula Pacente appeared and argued on her behalf. William F. Hooks, attorney, appeared and argued on behalf of the Montana Department of Administration, Office of the Public Defender.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to file a complaint in district court, in the district where the alleged violation occurred, and seek appropriate relief. *Section 49-2-511(3)(a), MCA.* If a charging party fails to commence a civil action within 90 days, their claims are time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Sections 2-4-702 and 49-2-511(3)(b), MCA.* This review must be requested within 30 days of the date of this order. A party must promptly serve copies of a petition for judicial review upon the Human Rights Commission and all parties of record. *Section 2-4-702(2), MCA.*

IT IS HEREBY ORDERED, that Paula Pacente's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against the Montana Department of Administration, Office of the Public Defender.

DATED this 13<sup>th</sup> day of March, 2013.



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Cynthia Wolken, Acting Chair  
Human Rights Commission

## CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 13<sup>th</sup> day of March, 2013.

PAULA PACENTE  
111 N. 34<sup>TH</sup> STREET  
BILLINGS, MT 59101-2020

WILLIAM F. HOOKS  
MONTANA DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE PUBLIC DEFENDER  
44 W. PARK  
BUTTE, MT 59701



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Annah Smith, Legal Secretary  
Montana Human Rights Bureau